

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, November 9, 2021)

501 KAR 7:140. Prisoner rights.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 196.035, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes procedures to ensure the rights of prisoners in restricted custody centers.

Section 1. Policy and Procedure. (1) Each center shall have a written statement of prisoner rights which shall address:

- (a) Access to court;
- (b) Access to attorney;
- (c) Mail;
- (d) Telephone;
- (e) Grievance procedure;
- (f) Search and seizure;
- (g) Disciplinary procedure;
- (h) Racial segregation;
- (i) Medical care;
- (j) Counseling, if available; and
- (k) Religion.

(2) The statement of prisoner rights shall be made available to all inmates being assigned to general housing units. The statement of prisoner rights may be posted in a conspicuous place, provided in hard-copy format, or provided through close-circuit cable television **or another electronic format.**

(3) The jailer shall not prohibit a prisoner's right of access to the judicial process.

(4) The jailer shall ensure the right of each prisoner to have confidential access to his attorney and his authorized representative. Confidential prisoner access to the prisoner's attorney through unmonitored phone lines in non-contact visitation areas shall be permitted.

(5) The jailer shall have a written policy and procedure that defines the center's visitation rules, which shall include:

- (a) A schedule identifying no fewer than two (2) visiting days each week, one (1) of which shall be during the weekend;
- (b) At least one (1) visit per week per prisoner shall be allowed except if a prisoner has been assessed a disciplinary penalty for an infraction of rules governing visitation;
- (c) A visit shall not be less than fifteen (15) minutes;
- (d) Two (2) or more persons permitted to visit at the same time shall count as a single visit; and
- (e) Children, if accompanied by an adult, shall be permitted to visit a prisoner.

(6) Attorneys, clergy, and health care staff shall be permitted to visit a prisoner at reasonable hours other than during regularly scheduled visiting hours and shall not count as an allotted visit.

(7) Each visitor shall register and show proper photo identification before admission and shall be denied admission for refusal to register, refusal to consent to search, or for a violation of the visitation rules established pursuant to subsection (5) of this section or established in subsection (6) of this section.

(8) A prisoner shall not be restricted in regard to whom he may have as a visitor, unless the jailer determines to exclude the visitor on the basis of one (1) or more of the following conditions:

(a) The visitor:

1. Represents a clear and present danger to security;
2. Has a past history of disruptive conduct at the center;
3. Is under the influence of alcohol or drugs;
4. Refuses to submit to a search; or
5. Refuses to show proper identification; or

(b) The prisoner refuses the visit.

(9) Except for visitors pursuant to subsection (6) of this section, jail personnel may monitor and record visitor and prisoner conversation for security reasons. Notification shall be posted in a conspicuous location in the visiting areas.

Section 2. Mail. (1) The jailer shall have a written policy and procedure for receiving and sending mail that:

(a) Protects prisoners' personal rights; and

(b) Provides for security practices consistent with the operation of the center.

(2) A prisoner shall be allowed to correspond with anyone if the correspondence does not violate any state or federal law. Caution shall be taken to protect prisoner rights in accordance with court decisions regarding correspondence. The jailer may enact a policy prohibiting the sending or receipt of prisoner-to-prisoner mail. The policy shall permit the jailer discretion to grant the privilege.

(3) Incoming mail may be opened and inspected for contraband prior to delivery. Mail received from the court, an attorney of record, or a public official may be opened and inspected only in the presence of the prisoner. After being opened and inspected in the presence of the prisoner, mail received from the court, an attorney of record, or a public official may be provided to the prisoner via an electronic copy through a secure, personal account.

(4) Measures to prevent receipt of prisoner mail containing intoxicants, including fabricated legal mail shall be permitted.

Section 3. Telephone. (1) Written policy and procedure shall permit each prisoner to complete at least one (1) telephone call each week. The expense incurred for a call shall be borne by the prisoner or the party called.

(2) If calls are monitored, the prisoner shall be notified.

(3) Telephone privileges may be suspended for a designated period of time if telephone rules are violated.

Section 4. Religion. (1) Each prisoner shall be:

(a) Granted the right to practice his religion within limits necessary to maintain institutional order and security; and

(b) Afforded an opportunity to participate in religious services and receive religious counseling within the center.

(2) A prisoner shall not be required to attend or participate in any religious service or discussion.

Section 5. Access to Programs. The jailer shall ensure each prisoner equal access to programs and services, if the security and order of the center are not jeopardized.

Section 6. Grievance Procedure. The jailer shall have a written prisoner grievance procedure. The procedures shall include provisions for:

- (1) A response to each written grievance within ten (10) days;
- (2) Equal access for each prisoner;
- (3) A guarantee against reprisal; and
- (4) Resolution~~[Resolving]~~ of legitimate complaints.

Section 7. Disciplinary Rights. Each center shall have a written policy and procedure for maintaining discipline, consistent with constitutional requirements for due process.

Section 8. Medical. Each prisoner shall be afforded access to necessary medical care.

The Jail Standards Review Commission established pursuant to KRS 441.055(1)(b) has approved the standards in this administrative regulation at its meeting on July 13, 2021 prior to its filing with the Legislative Research Commission in compliance with KRS 13A.120(3), 13A.220(6)(a), and 441.055(2).

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegContact@ky.gov.